

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Federal Trade Commission

v.

Civil No. 04-cv-377-JD

Seismic Entertainment
Productions, Inc., et al.

PROCEDURAL ORDER

The Federal Trade Commission and John Robert Martinson filed a "Stipulated Final Order for Permanent Injunction and Settlement of Claims for Monetary Relief Against Defendant John Robert Martinson" on October 20, 2006. Previously, on July 14, 2006, the court granted the assented-to motion to enter an order of judgment for permanent injunction and other equitable relief against defendants Mailwiper, Inc., and Spy Deleter, Inc. The Stipulated Final Order filed by the FTC and Martinson on October 20 and the order entered on July 14 against Mailwiper and Spy Deleter are similar in both form and content.

The Stipulated Final Order against Martinson, refers to both "Defendant" in the singular and "Defendants" in the plural, particularly in the section titled "Monetary Judgment and Consumer Redress." That section also provides that judgment is entered "against the Defendant, jointly and severally with former Defendants Mailwiper and Spy Deleter." Stip. at 8. Based on the definition on the first page of the Stipulated Final Order, "Defendants," as used there, means Martinson, Mailwiper, and Spy

Deleter.

Judgment has already been entered against Mailwiper and Spy Deleter. That judgment was entered "against the Defendants, jointly and severally," Order, July 14, at 12, and defined "Defendants" to mean Spy Deleter and Mailwiper, without reference to Martinson, id. at 1. By its own terms and because judgment was previously entered against Mailwiper and Spy Deleter, the Stipulated Final Order is against Martinson, not Mailwiper or Spy Deleter.

Therefore, the FTC and Martinson shall file a joint or stipulated clarification of the Stipulated Final Order with respect to the use of "Defendants" in the plural. The clarification shall be filed **on or before November 3, 2006**. The court will not act on the Stipulated Final Order unless a clarification is filed.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

October 23, 2006

cc: Stacey P. Ferguson, Esquire
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